

## REMARKS

In the Final Action dated August 14, 2002, claims 1-24 and 26-37 are pending and are under consideration. Claims 34-37 are objected to for allegedly improper use of articles. Claims 1-24 and 26-37 are rejected under 35 U.S.C. §112, first paragraph. Claims 2-24 and 26-37 are further rejected 35 U.S.C. §112, second paragraph, as allegedly indefinite. In addition, claims 26-37 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by Holton et al. (WO 93/20206). The specification has been objected to for certain alleged informalities.

In response to the Final Action, Applicants have previously filed an Amendment under 37 C.F.R. §1.116. In the Advisory Action dated April 24, 2003, the Examiner states that such amendment will not be entered, allegedly because the amendment raises new issues that would require further consideration.

This Response addresses each of the Examiner's rejections and objection. Applicants therefore respectfully submit that the present application is in condition for allowance or at least in better condition for appeal. Favorable consideration of all pending claims is therefore respectfully requested.

The specification is objected to for certain alleged informalities. More specifically, the Examiner states that the specification must be amended to insert the appropriate Section Headings. In addition, the Examiner states that Table 7 should be deleted from the specification and submitted as an additional drawing.

In response, Applicants have amended the specification to insert the appropriate Section Headings. In addition, Applicants have deleted Table 7 from the specification; and the subject matter of Table 7 is now delineated in new Figure 20(i)-(v). Applicants have also renumbered Tables 8-12 and amended the Brief Description of Drawings, accordingly. In

addition, Applicants are submitting new drawing sheets of Figures 1-20(v) to replace the drawing sheets of record. The only change in the drawings is the addition of Figures 20 (i)-(v). The content of Figures 20 (i)-(v) is identical to Table 7 at pages 92-97 of the specification as originally filed. No new matter is introduced by the foregoing amendments.

In view of the foregoing, the objection to the specification is overcome. Withdrawal of the objection is therefore respectfully requested.

Claims 34-37 are objected to for allegedly improper use of articles.

In response, Applicants have amended these claims in accordance with the Examiner's suggestion. Withdrawal of the objection is therefore respectfully requested.

Claims 1-24 and 26-37 are rejected under 35 U.S.C. §112, first paragraph. The Examiner alleges that the claims contain subject matter not adequately described in the specification. The Examiner further alleges that the specification is not enabling for the subject matter encompassed by the claims.

Applicants respectfully submit that in light of the present teachings, those skilled in the art are able to make and use the claimed nucleic acid molecules without undue experimentation. However, in an effort to favorably advance the prosecution of the present application, Applicants have amended the claims to recite specific sequence identifiers. It is respectfully submitted that the rejection under 35 U.S.C. §112, first paragraph, is overcome in view of the amendments to the claims. Withdrawal of the rejection is therefore respectfully requested. Applicants reserve the right to file a continuation to pursue the subject matter of the claims as originally filed in the present application.

Claims 2-24 and 26-37 are also rejected under 35 U.S.C. §112, second paragraph, as allegedly indefinite. More specifically, the Examiner objects to the following terms as allegedly

indefinite: "control production" in claim 2; "similarity" in claims 3-13; "low stringency conditions" in claims 3-13, 26, 29 and 32-33; "capable of modulating" in claim 31. In addition, the Examiner objects to claims 26, 29 and 32-33 for allegedly improper use of the Markush language.

It is respectfully submitted that the claims as presently amended are not indefinite. Withdrawal of the rejection under 35 U.S.C. §112, second paragraph, is therefore respectfully requested.

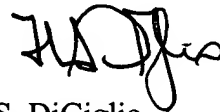
Claims 26-37 are further rejected under 35 U.S.C. §102(b) as allegedly anticipated by Holton et al. (WO 93/20206).

It is observed that Holton et al. disclose a nucleic acid molecule, apparently identical to SEQ ID NO: 26 of the present application, which encodes a petunia F3'H. Applicants respectfully submit that Hilton et al. do not teach the isolated nucleic acid molecules as presently claimed. Therefore, Applicants respectfully submit that the rejection of the claims under 35 U.S.C. §102(b) is overcome. Withdrawal of the rejection is therefore respectfully requested.

In a brief telephone interview with the Examiner on April 24, 2003, the Examiner indicated that the claims would be favorably considered if amended to recite specific sequence identifiers. Applicants respectfully submit that the claims as presently amended recite specific sequence identifiers.

In view of the foregoing amendments and remarks, it is firmly believed that the subject application is in condition for allowance, which action is earnestly solicited.

Respectfully submitted,



Frank S. DiGiglio  
Registration Number 31,346

Scully, Scott, Murphy & Presser  
400 Garden City Plaza  
Garden City, New York 11530  
Telephone: 516-742-4343

FSD/XZ:ab